

**ZONING BOARD OF APPEALS**

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ZBA 2010-53  
Petition of Peter Calitri  
42 Clovelly Road

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Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, July 15, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PETER CALITRI requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 5 foot by 13.9 foot porch extension with less than required front yard setbacks and construction of a 1,273.5 square foot two-story addition that will meet all setback requirements, on a 12,116 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 42 CLOVELLY ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 28, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Vincent O'Brien, Esq., representing Peter Calitri (the "Petitioner"). He said that also present were John Chapman, Architect and Evan Wilmarth, Engineer.

Mr. O'Brien said that they were previously before the Board with a plan that was not well received. He said that John Chapman is an Architect and a neighbor who understood what would fit in better with the neighborhood. He said that Mr. Chapman considered the advice of the neighbors when he re-designed the plans.

Mr. O'Brien said that a primary concern had been the length of the building along the street and greenspace along the back.

Mr. O'Brien said that part of the design was to include the existing structure.

Mr. O'Brien said that one neighbor on the left will be impacted by the change of the garage doors. He said that they have entered into a separate agreement worked out with Laurence Shind, Esq. to address Mr. Paul of 38 Clovelly Road's concerns.

Mr. O'Brien said that there is existing shrubbery on both ends of the lot line between 38 and 42 Clovelly Road. He said they will create a six foot deep vegetated barrier using 10 to 12 foot arborvitae and yews in between the existing vegetation along the lot line. He said that at the rear of the property they will transplant some existing arborvitae and supplement them with three or four white pines. He said that they will install a drainage system to reduce runoff from the site. He said that the plans include additional curbing and outfall pipes. He submitted plans to the Board.

The Board commended the Petitioner for responding to the neighbors' concerns.

John Chapman said that they held six meetings with the neighbors to address their concerns. He said that they reviewed alternative designs. He said that they retained the lot coverage from the initial application at 20.5%. He said that they maintained the approximate square footage of Total Living Area plus Garage Space (TLAG) of 4,000 square feet. He said that the massing, the height and the rooflines have all been reduced. He said that resulted in a significant amount of additional useable open space. He said that impervious surface has been reduced by putting in a more narrow driveway than was initially proposed. He said that they addressed all stormwater issues. He said that they will keep the existing street tree. He said that they added significant screening along the lot lines. He said that they significantly reduced the frontage along Clovelly Road from 72 feet on the initial proposal to 38 feet in the current proposal. He said that the new addition will be significantly lower in height. He said that the addition at the rear will be equal to but not exceed the existing ridge height. He said that they moved the garage from fronting on Clovelly Road to the back. He said that the majority of houses in the neighborhood have garages at the rear. He said that they reduced the amount of exterior lighting. He said that there will only be shielded porch lights.

Mr. Chapman said that there is an existing nonconforming front yard setback and nonconforming lot size.

Mr. Chapman said that they will be keeping the plane of the existing front elevation. He said that they are adding a porch to make the new wing look like it is part of the original design.

Mr. Chapman said that the neighborhood has approximately 60% nonconforming lots. He said that this structure is average with respect to front and side yard setbacks.

Evan Willmarth said that they came up with plans for retention basins off of the front of the house. He said that all of the roof drainage along the front of the house will be connected to a drainage basin, as well as drainage from all of the additional square footage and 10% of the existing square footage. He said that the basin was designed to completely contain a 100-year storm. He said that the neighbors requested a drain pipe across the front of the house and tied into a leaching basin in the driveway. He said that was added to the plan.

Mr. Chapman said that the existing house currently complies with the 20 foot left side yard setback. He said that the proposed garage will comply with the 30 foot side yard setback.

Mr. O'Brien said that there will be recessed lighting above the garage doors. Mr. Chapman said that there is one more light at the garage back door that is required by Building Code. He said that light will be screened and shielded. He said that no lighting was added to the rear elevation.

Elizabeth Weaver, 72 Forest Street, said that she is the abutter to the rear. She said that the proposal is for a large house on an undersized lot. She said that this design is far more attractive than the previously proposed one. She said that the proposed structure will be closer to the rear property line. She said that 24 feet of the proposed structure will be at the 20 foot rear yard setback and 26 feet, including the new bay window, will be at 30 feet. She said that she spoke with Mr. Calitri, who discussed adding trees along the rear property line. She said that she was concerned because her living area is very close to

where the new addition will be. She asked that a condition of approval be that more substantial screening be added. She said that she would prefer to have an 8 foot privacy fence added along with mature evergreen plantings along the rear property line.

Laurence Shind, Esq. said that he was representing the neighbors, the Pauls, at 38 Clovelly Road. He said that they did reach an agreement with the developer on some conditions. He said that his clients were concerned that the maintenance agreements be binding on future owners. He said that they were asking that the agreement conditions be added to the conditions for approval of the Special Permit and then recorded at the Registry of Deeds. He asked that paragraphs 1 and 2 of the agreement be incorporated in the decision. He said that paragraphs 1 and 2 highlight what was shown on the plans that were submitted at the hearing. He said that the plan referred to in the agreement should have been dated July 14, 2010 not July 15<sup>th</sup>.

The Board said that it was concerned about the survival of existing plantings in the future. The Board said that it could approve the plans and initial installation of landscaping and drainage improvements.

The Board said that it received letters of support from the neighbors.

#### Statement of Facts

The subject property is located at 42 Clovelly Road, on a 12,116 square foot lot in a district in which the minimum lot size is 20,000 square feet, with a 21.1 foot front yard setback.

The Petitioner is requesting a Special Permit/Finding that construction of a 5 foot by 13.9 foot porch extension with less than required front yard setbacks and construction of a 1,273.5 square foot two-story addition that will meet all setback requirements, on a 12,116 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 42 CLOVELLY ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 3/12/10, revised 3/17/10 & 5/31/10, stamped by Evan A. Wilmarth, Professional Land Surveyor, Existing and Proposed Floor Plans & Elevation Drawings, dated 6/1/10, prepared by John Chapman, Drainage Summary, prepared by H.L. Millard, Professional Engineer, Drainage Plan, dated 5/28/10, revised 7/10/10 & 7/14/10, prepared by prepared by H.L. Millard, Professional Engineer, and photographs were submitted.

On July 13, 2010, the Planning Board reviewed the petition and recommended that the Special Permit be granted.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that although construction of a 5 foot by 13.9 foot porch extension with less than required front yard setbacks and construction of a 1,273.5 square foot two-story addition that will meet all setback requirements, on a 12,116 square foot lot in a district in which the minimum lot size

is 20,000 square feet is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted for construction of a 5 foot by 13.9 foot porch extension with less than required front yard setbacks and construction of a 1,273.5 square foot two-story addition that will meet all setback requirements, subject to the following conditions:

1. The Petitioner agrees to install a landscaping screen 6 feet in width on the 42 Clovelly property along the boundary with 38 Clovelly, such screen to consist of a minimum of 12 arbor vitae trees, with a height of 10-12 feet (10 foot-minimum), as detailed on the plan entitled, "Drainage Plan for Land in Wellesley, Massachusetts: dated May 28, 2010, as most recently revised July 14, 2010 by Dover Land Surveying, Inc. (the "Drainage Plan"). As part of the installation of such landscaping screen, the existing Blue Spruce and Burning Bush plantings in the rear of 42 Clovelly shall not be disturbed and the Specimen Maple tree in the rear of 38 Clovelly and Lilac bush in the front of 38 Clovelly shall be protected from construction damage.
2. The Petitioner agrees to install the following site/drainage improvements on the 42 Clovelly property, as detailed on the Drainage Plan:
  - a. Install a minimum 6 inch high bituminous reveal or curbing adjacent to the new driveway of 42 Clovelly, along the property line with 38 Clovelly;
  - b. Direct surface water runoff from the backyard of 42 Clovelly into the driveway and then into the proposed drywell;
  - c. Connect overflow from Cultec chambers into proposed drywell.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time-stamped on this decision.

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

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Cynthia S. Hibbard, Acting Chairman

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Robert W. Levy

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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